

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT P. DUCATMAN,

Plaintiff,

v.

**DAKOTA MINNESOTA & EASTERN
RAILROAD CORPORATION, and
JACOB JAMES GRAVES,**

Defendants.

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CASE NO. _____

JUDGE

NOTICE OF REMOVAL

DEMAND FOR JURY TRIAL

AND NOW, come Defendants, Dakota, Minnesota & Eastern Railroad Corporation and James Jacob Graves, incorrectly identified in the caption as Jacob James Graves, by and through their counsel, Dickie, McCamey & Chilcote, P.C., and remove the above-captioned lawsuit pursuant to 28 U.S.C. § 1441 *et seq.* from the Court of Common Pleas of Cuyahoga County, Ohio to the United States District Court for the Northern District of Ohio, stating as follows:

1. Plaintiff Robert P. Ducatman initiated this action on December 30, 2020 by filing a Complaint in the Court of Common Pleas of Cuyahoga County, Ohio at No. CV-20-942277 alleging that he sustained personal injuries and damages.

2. Attached hereto as Exhibit "A" are true and correct copies of the Complaint and other pleadings that have been filed to date in the Court of Common Pleas of Cuyahoga County, Ohio at No. CV-20-942277.

3. The Complaint alleges that on or about September 17, 2020, Defendant Graves was employed by Dakota, Minnesota & Eastern Railroad Corporation and was operating a semi-tractor-trailer traveling in an eastbound direction on State Route 43 in Solon, Ohio. (Complaint, ¶¶ 3, 4).

4. The Complaint further alleges that Plaintiff was a pedestrian crossing State Route 43 in the crosswalk at the intersection of Hawthorne Parkway and State Route 43 when he was struck by the semi-tractor-trailer due to the negligence of Mr. Graves. (Complaint, ¶¶ 5-6).

5. Plaintiff alleges that as a direct and proximate result of Defendant's negligence, Plaintiff "suffered severe and permanent personal injuries, pain and suffering of both body and mind, including fractures of the right tibia, fibula, ankle and left humerus." (Complaint, ¶ 7). Plaintiff further alleges that he "has also incurred medical bills as well as lost wages and other economic losses" and that "[a]ll of the foregoing injuries and damages are permanent." (Complaint, ¶ 7).

6. Upon information and belief, at the time this action was commenced and continuing to the present, Plaintiff was and is a citizen and resident of the State of Ohio. (Complaint, ¶ 1).

7. At the time this action was commenced and continuing to the present, Defendant Dakota, Minnesota & Eastern Railroad Corporation was and is a Delaware corporation with its principal place of business located in Minneapolis, Minnesota.

8. At the time this action was commenced and continuing to the present, Defendant James Jacob Graves was and is a citizen and resident of the State of Missouri.

9. The current action pending in the Court of Common Pleas of Cuyahoga County, Ohio is within the jurisdiction of the United States District Court for the Northern District of Ohio, Eastern Division.

10. Accordingly, the United States District Court for the Northern District of Ohio has original jurisdiction of this action pursuant to 28 U.S.C. § 1332 inasmuch as the matter is between citizens of different states and, upon information and belief, the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

11. This action is removable from the Court of Common Pleas of Cuyahoga County, Ohio pursuant to the provisions of 28 U.S.C. § 1441 *et seq.* Defendants have filed the within Notice of Removal within thirty (30) days of their receipt of the Summons and Complaint, and it has been less than one year after commencement of the action. 28 U.S.C. § 1446.

12. Concurrent with the filing of this Notice of Removal, Defendants have filed a Notice of Filing of Notice of Removal with the Court of Common Pleas of Cuyahoga County, Ohio advising that Defendants have removed this action to the United States District Court for the Northern District of Ohio.

13. In filing this Notice of Removal, Defendants do not waive any affirmative defenses which they may assert in this action.

WHEREFORE, Defendants, Dakota, Minnesota & Eastern Railroad Corporation and James Jacob Graves, pray that this case be removed from the Court of Common Pleas of Cuyahoga County, Ohio to the United States District Court for the Northern District of Ohio.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: /s/ Scott D. Clements
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Counsel for Defendants,
Dakota, Minnesota & Eastern Railroad
Corporation and James Jacob Graves

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of January, 2021, I filed the foregoing Notice of Removal with the Clerk using the Court's CM/ECF System, which will send notification of such filing to all counsel of record listed below. Additionally, a copy of the Notice of Removal has been sent to counsel of record by electronic mail this date.

Dennis R. Lansdowne, Esq.
Nicholas A. Dicello, Esq.
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